

REMARKS

Claims 1 to 9, and 14 to 24 are in the application. Claims 1 and 19 have been amended. No new matter is believed added.

The Examiner comments that Applicants have failed to amend the specification by adding continuing data to which the instant specification claims benefit from. "Without this information, Applicants will lose the claimed foreign priority because no ADS has been filed either".

The present application is the §371 national stage entry of a foreign filed priority application. Under the provisions of 35 USC §119 such priority is claimed by the basis of an appropriately executed declaration, such as has been filed herein. An amendment to this specification is not necessary.

It is under the provisions of 35 USC §120 that an application previously filed in the United States, is amended to contain a specific reference to the earlier filed application. It is the act of filing the PCT application, which designated the US that is technically the filing of "this" application.

While it is not believed necessary, Applicants have amended the specification to recite the §371 national stage entry of the instant application.

In view of this reconsideration and withdrawal of the objection to the specification is respectfully requested.

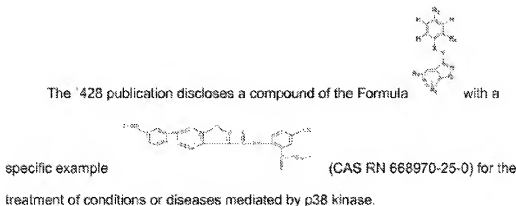
Rejection under 35 USC 103

Claims 1-6, 9, and 15-24 are rejected under 35 USC §103 (a) as being unpatentable over Thorarensen et al. (WO 2004/018428). Applicants respectfully traverse this rejection.

The Thorarensen '428 patent application discloses a generic formula wherein the phenyl ring which is substituted by a carboxylic acid (R1) and an electron withdrawing group (R2) is connected to a HET ring (R4) via an X-Y linkage. X may be a NH, and Y may be a C(O), C(O) or a C(=N-CN) link, or together they are a cycloalkyl or an alkene. In no event at this position is there simply a bond between the Het ring and the phenyl ring.

Applicants have amended Claim 1 by deleting the optional $-(CH_2)_kNHCOR^3$, and $-(CH_2)_kCONR^3R^4$ substituents. Consequently, the compounds of the present can not contain the required amide linkage of Thorarensen.

The Examiner on page 5 of the office action references a particular compound of the '428 application:



The Examiner comments that:

The difference between the '428 compound and the instantly claimed invention is that the substituents **Z** and **R¹** as -H vs. -methyl group (i.e. one of the claimed alkyl in **Z**), as being claimed in the instant claims.

However, the '428 publication also requires the necessary amide linkage between the oxazole ring and the other substituted phenyl ring. In view of the claims amendments herein, the '428 application does not teach nor suggest the claimed substituent groups of Applicants A ring herein.

Therefore, reconsideration and withdrawal of the rejection to the claims under 35 USC §103(a) is respectfully requested.

Rejection under 35 USC 103

Claims 1-6, 9, and 15-24 are rejected under 35 USC §103 (a) as being unpatentable over Angell et al. (WO 2004/010995). Applicants respectfully traverse this rejection.

It is improper to both reject the instant claims over the disclosure of Angell et al. (WO 2004/010995, USSN 10/522,955) application and also to provide an obvious-type double patenting rejection over the same.

As Applicants have submitted a terminal disclaimer herein, this rejection should be obviated. Therefore, withdrawal of the rejection to the claims under 35 USC §103 is respectfully requested.

Rejection under Obvious Double Patenting

Claims 1-9, and 15-24 are provisionally rejected on the grounds of the judicially created doctrine of obviousness-type double patenting over Claims 1-7, 11-12 and 15-26 of copending application -.

A terminal disclaimer over the claims of copending application USSN 10/522,955 accompanies this response.

In view of this submission, withdrawal of the rejection to the claims is respectfully requested.

CONCLUSION

Should the Examiner have any questions or wish to discuss any aspect of this case, the Examiner is encouraged to call the undersigned at the number below. If any additional fees or charges are required by this paper the Commissioner is hereby authorized to charge Deposit account 19-2570 accordingly.

Respectfully submitted,



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